

REMARKS

This application is amended in a manner believed to place it in condition for allowance at the time of the next Official Action.

Claims 27, 31, 33 and 37-40 are amended. Claim 44 is new. Support for the amended and new claims may be found generally throughout the specification, and in particular, for example, at page 4, line 23 to page 5, line 17 and page 20, line 11 to page 21, line 2. Claims 18-44 remain pending in the application. Claims 18-26, 41 and 43 were withdrawn from further consideration as being drawn to a non-elected invention.

The Official Action objected to claim 31 because of incorrect punctuation. The Official Action suggests deleting the period at the end of line 3 on page 5 of the previously presented set of claims and inserting "; and".

Applicants acknowledge with appreciation the Examiner's suggestion for amending claim 31. Accordingly, claim 31 is amended in a manner consistent with the suggestions made in the Official Action.

Claims 27-40 and 42 were rejected under 35 USC §102(b) as being anticipated by LAHANAS et al. U.S. 5,304,334 (LAHANAS). That rejection is respectfully traversed, for the reasons that follow.

The LAHANAS composition is formed by mixing an aqueous solution of a water soluble polymeric emulsifier, a silicon-based

emulsifier and an oleophobic, hydrophobic silicone fluid in amounts effective to form a stable water-in-silicone emulsion. LAHANAS then adds a hydrophilic gel to the water-in-silicone emulsion so that the gel is dispersed in the emulsion. Finally, an oil or liquid crystal and a perfluoropolyether are added to form a multi-phase composition having a fatty external phase and a gelled aqueous phase. See the abstract and Figure 1 of LAHANAS. However, LAHANAS fails to disclose the process as recited in independent claims 27 and 44 of the present invention.

LAHANAS fails to disclose adding a fatty phase to a gelled aqueous phase, as recited in the present claims 27 and 44, or adding a fatty phase to a vessel containing a gelled aqueous phase as recited in claim 44. Rather, LAHANAS discloses adding a gelled phase to a water-in-silicone emulsion (e.g. Examples 1 and 2 in columns 7 and 8).

LAHANAS also fails to disclose the recited amount of gelled aqueous phase (i.e. about 60% up to about 98%), as LAHANAS discloses the gelled phase is 35-55%, preferably 25.25% of the composition (column 8, line 3). Furthermore, LAHANAS fails to disclose forming a water-in-oil emulsion from the fatty phase and the gelled aqueous phase (i.e. as recited in claim 44), as LAHANAS is directed to multi-phase compositions.

Accordingly, LAHANAS fails to disclose the present invention with sufficient specificity for the finding of anticipation, and LAHANAS does not anticipate claims 27-40, 42

and 44. Applicants respectfully request that the rejection be withdrawn.

Claims 27-40 and 42 were rejected under 35 USC §102(b) as being anticipated by VESPERINI et al. U.S. 5,306,498 (VESPERINI). That rejection is also respectfully traversed.

VESPERINI discloses a triple emulsion comprising a continuous gelled aqueous external phase with a water-in-oil emulsion dispersed in the aqueous external phase. The gelled external aqueous phase represents 40 to 60% of the total composition. The composition is formed by adding an aqueous phase to a fatty phase to obtain the water-in-oil emulsion, and adding the water-in-oil emulsion to a gelled aqueous phase. See the abstract, column 1, lines 50-62 and column 2, lines 25-33.

Even if one were to consider the water-in-oil emulsion of VESPERINI as comprising a fatty external phase and an aqueous phase prior to being added to the gelled aqueous phase, the emulsion is not formed by the process step of adding a fatty phase to a gelled aqueous phase as recited. Furthermore, the continuous phase of VESPERINI is the aqueous phase, in contrast to the claimed method wherein the continuous phase is the fatty phase.

Thus, VESPERINI does not disclose the process recited in claims 27-40, 42 and 44 with sufficient specificity for the finding of anticipation, and cannot anticipate claims 27-40, 42 and 44.

Therefore, applicants respectfully request that the rejection be withdrawn.

Claims 27-40 and 42 were rejected under 35 USC §102(b) as being anticipated by LORANT U.S. 5,952,395. That rejection is also respectfully traversed.

LORANT discloses an "oil-in-water" composition. That is, LORANT discloses a composition comprising a fatty internal phase. Although LORANT does disclose a water-in-oil emulsion as an intermediate (i.e. a fatty external phase), the aqueous phase is not a gelled aqueous phase. Rather, the water-in-oil emulsion is inverted to an oil-in-water emulsion by adding water to the emulsion. It is the oil-in-water emulsion that is actually added to a gelled aqueous phase. See the abstract and the preparation of the emulsion in columns 9 and 10 of LORANT.

Accordingly, LORANT fails to disclose the recited process of claims 27-40, 42 and 44 with sufficient specificity for the finding of anticipation. Applicants respectfully request that the rejection be withdrawn.

Claims 27-40 and 42 were rejected under 35 USC §102(b) as being anticipated by KELLNER et al. U.S. 6,042,815 (KELLNER). That rejection is also respectfully traversed.

KELLNER discloses ingredients for both water-in-oil emulsions and oil-in-water emulsions. The ingredients include gelling agents. KELLNER provides only one example (Example 1 at Column 22) to illustrate the process of preparing a composition.

However, the example is directed to an oil-in-water emulsion (i.e. a composition comprising a fatty internal phase).

Thus, KELLNER fails to disclose a process for the preparation of a composition comprising a fatty external phase and a gelled aqueous phase, as recited in claims 27-40, 42 and 44, and KELLNER cannot anticipate claims 27-40, 42 and 44.

Therefore, applicants respectfully request that the rejection be withdrawn.

Claims 27-40 and 42 were rejected under 35 USC §102(b) as being anticipated by AFRIAT et al. U.S. 6,149,900 (AFRIAT). That rejection is also respectfully traversed.

AFRIAT discloses a multi-phase composition comprising a water-in-oil emulsion dispersed within a gelled aqueous external phase. See the abstract and examples of AFRIAT.

Even if one were to consider the dispersed emulsion (i.e. the "primary emulsion" as disclosed by AFRIAT) as a composition having a fatty external phase, AFRIAT does not disclose adding the fatty phase to a "gelled" aqueous phase. Rather, the only gelled aqueous phase disclosed is the one poured into the primary emulsion (comprising the fatty phase) to arrive at the water-in-oil emulsion dispersed within an gelled aqueous external phase.

Accordingly, as AFRIAT fails to disclose the recited process steps of claims 27-40, 42 and 44 with a sufficient

specificity for the finding of anticipation, applicants respectfully request that the rejection be withdrawn.

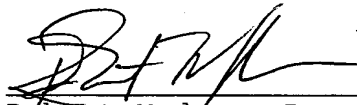
Applicants believe that the present application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Please charge the fee of \$50 for one extra claim of any type added herewith to Deposit Account No. 25-0120.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Robert Madsen, Reg. No. 58,543
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

RAM/lrs